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BLOGS

State Franchise and Dealer Laws

Court Finds Issue of Material Fact With Respect to Distributor's Claim Under the Wisconsin Fair Dealership Law

In *DeTemple v. Leica Geosystems Inc.*, Bus. Franchise Guide (CCH) ¶ 15,460 (N.D. Ga. Feb. 9, 2015), the United States District Court for the Northern District of Georgia determined that a genuine issue of material fact existed as to whether a manufacturer and its distributor shared a community of interest within the meaning of the Wisconsin Fair Dealership Law (WFDL). The dispute arose when Leica Geosystems, a manufacturer of surveying and construction products, terminated DeTemple d/b/a TPSG, one of its Wisconsin-based distributors, after TPSG failed to meet performance targets. TPSG brought suit under the WFDL and alleged that Leica lacked good cause to terminate the relationship. Leica then moved for summary judgment on the WFDL claim, arguing that the parties' distribution agreement did not fall within the definition of a "dealership" under the WFDL.

Based on the facts in the record and legislative directives to construe the WFDL broadly, the court held that it could not determine the existence of a dealership on summary judgment. The court focused its analysis on the community of interest prong of the WFDL and considered whether the termination of the business relationship between the parties would have a significant impact on TPSG's financial interests. In finding that a question of fact existed, the court was persuaded by the following key factors: (1) the percentage of revenue that TPSG derived from the sale of Leica's products; (2) TPSG's need to hire new personnel to devote to its alleged dealership; (3) TPSG's purchase of a building to house a dedicated showroom; (4) cooperation between the parties in setting sales targets; and (5) TPSG's advertising expenditures for Leica's products.

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